

# INLAND EMPIRE BAR REVIEW

Issue 14

INLAND EMPIRE CHAPTER

SUMMER, 2014

FEDERAL BAR ASSOCIATION

## Message from Your Federal Bar Association Chapter President

By: James E. "Jeb" Brown



As Summer fades into Fall, I reflect on recent developments in the Federal Court and look forward to some exciting presentations. I hope that you were able to join us at the very special event that was hosted in July with Chief Judge Kozinski.

Judge Kozinski provided us with an update on matters at the Ninth Circuit and also shared his reflections with us as he leaves the Chief Judge assignment. It was an interesting and entertaining program and we were thrilled that Judge Kozinski would visit the Eastern Division of the Central District to spend some time with us.

As we move forward into the Fall, we have two timely and interesting upcoming programs. On October 2, we will be presenting Voting Rights in the 2014 Elections. The speakers are Charles Doskow, Dean Emeritus and Professor of Law at University of La Verne College of Law and Justin Levitt, Professor of Law at Loyola Law School. Later in October, we will host a program on White Collar Crime. Speakers will include members of the United States Attorney's Office and Defense bar. More information on this program will be forthcoming.

Finally, I want to welcome Magistrate Judge Kenly Kiya Kato to the Eastern Division. Judge Kato fills the position left by Magistrate Judge Parada. Judge Kato received her B.A. from UCLA and her J.D. from Harvard. Prior to her appointment, Judge Kato was in private practice specializing in federal criminal defense. Welcome Judge Kato! ❖

## CALENDAR OF EVENTS

### VOTING RIGHTS IN THE 2014 ELECTION DATE

DATE: THURSDAY, OCTOBER 2, 2014 (*NEW DATE*)

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE  
COURTROOM 3

TIME: 12:00 P.M. - 1:15 P.M.

*Featuring: Charles S. Doskow, Dean Emeritus and Professor of Law, University of La Verne College of Law; and Justin M. Levitt, Professor of Law, Loyola Law School, Los Angeles*

### WHITE COLLAR INVESTIGATIONS: TRENDS AND BEST PRACTICES

DATE: TUESDAY, OCTOBER 21, 2014

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

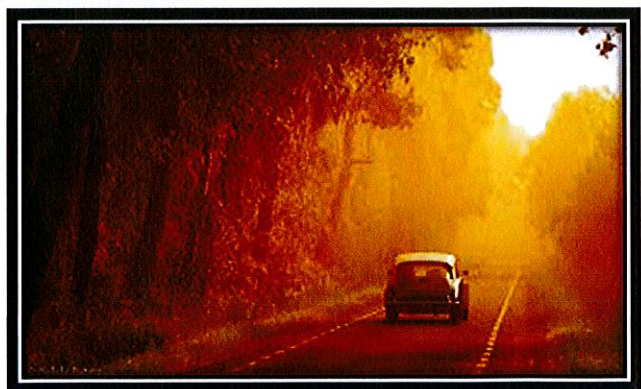
TIME: 12:00 P.M. - 1:15 P.M.

### FEDERAL CIVIL PRACTICE SEMINAR

DATE: TBA (*NOVEMBER*)

PLACE: GEORGE E. BROWN, JR. FEDERAL COURTHOUSE

TIME: 12:00 P.M. - 1:15 P.M.



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## Clerk's Update



KIRY K. GRAY | DEPUTY-IN-CHARGE  
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*By: Kiry Gray*

### United States Magistrate Judge Kenly Kiya Kato was sworn in on July 1, 2014

Judge Kato received her B.A. degree in Political Science from the University of California at Los Angeles (UCLA) in 1993, graduating summa cum laude and Phi Beta Kappa, and her J.D. in 1996 from the Harvard School of Law, graduating cum laude and serving as editor on the Harvard Civil Rights-Civil Liberties Law Review.

Prior to her appointment, Judge Kato maintained her own private practice, focused primarily on federal criminal defense work. She has also represented both plaintiffs and defendants in civil rights and employment litigation. Judge Kato was a former Deputy Federal Public Defender before entering private practice. She started her legal career as a law clerk to now deceased Judge Robert M. Takasugi, United States District Court, Central District of California. Judge Kato has also previously served as a Lawyer Representative to the Ninth Circuit Judicial Conference, as a member of the Merit Selection Panel, and as a member of the Standing Committee on Attorney Discipline.



*[Judge Kenly Kiya Kato (L) was sworn in as a Magistrate Judge by Federal District Court Judge Consuelo B. Marshall (R)]*

### CVB Online Traffic School Request:

On Monday, July 14, 2014, the Central District of California launched an exciting new pilot program in the Eastern Division – the first program of its kind in the nation. The new program allows individuals who receive tickets for traffic violations on federal property, and who are eligible to attend traffic school instead of paying a fine to resolve the ticket, to choose the traffic school option without making a personal appearance in court. This pilot program offers individuals with federal citations the opportunity to check their eligibility for traffic school online; and register their choice to attend traffic school without coming to court; and will eliminate the need for thousands of people every year to travel hundreds of miles to attend court hearings lasting just 2-3 minutes. This will ease the burden on the court, and reduce waiting times even for ticketed individuals who are not eligible to attend traffic school.

### Amended Local Rules Effective June 1, 2014:

The new and amended Local Civil Rules and Local Criminal Rules listed below became effective June 1, 2014.

#### Local Civil Rules:

- 5-4.5 [Mandatory Chambers Copies]
- 7-12 [Failure to File Required Documents]
- 11-3.1.1 [Typeface]
- 11-3.9.3 [(Citations) Cases]
- 11-4.1 [(Copies) In General]
- 40-3 [(Continuances, Notice of Settlement) Failure to Comply – Sanctions]
- 45-1 [Motions Relating to Discovery Subpoenas]
- 83-2.3.2 [Motion for Withdrawal]

#### Local Criminal Rules:

- 44-1 [Withdrawal of Counsel]
- 49-1.2(b)(4) [(Documents Excluded from Electronic Filing) Criminal Duty Matters]

All proceedings in cases commenced on or after June 1, 2014, and, insofar as just and practicable, all proceedings then pending will be governed by these new and amended rules.

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## Pro Se Corner



By: Diane Roth

When a District Court judge's chambers asked if Riverside Legal Aid's Pro Se Clinic could find representation for a plaintiff who appeared to have a meritorious case, **Gresham Savage Nolan & Tilden** stepped up. Associate **Jason Fair** took the lead on the case, with assistance from **Evan Beecher**. In their first full jury trial, they obtained valuable experience in motions in limine, jury selection, jury instructions, final argument and judgment. Jason stated the experience taught him more than any seminar would have. Unlike the commercial real estate and general commercial litigation he usually does, he had a lot of client contact and learned how to deal with client expectations. He also learned a lot about a previously unfamiliar area of the law (foreclosure). But the greatest benefit was "being able to have an immediate impact on an individual's life." Jason is looking forward to another pro bono opportunity.

In the last issue, I spoke of **Ruben Escalante's (Sheppard, Mullin Richter & Hampton, Orange County office)** great work on two pro bono cases. Midway through a jury trial in the first case, he recovered most of his client's life savings that she had lost by fraud. The other case is still pending. At the pro se clinic Ruben counsels clients with District Court civil cases, and he has agreed to take on more pro bono cases. Sheppard Mullin is highly committed to encouraging and supporting their attorneys to help pro bono clients – even in areas, like the Inland Empire, where they don't have a physical presence. This is immediately apparent on their website pages devoted to their pro bono history and commitment.

**Reid & Hellyer** has taken on cases in the bankruptcy court through the pro se clinic. This year **Scott Talkov, of Reid & Hellyer**, was awarded the prestigious **Lasarow Award** by the Bankruptcy Court for the Central District for long hours and excellent work on cross motions for summary judgment and eventual settlement in a difficult adversarial proceeding. Scott joined last year's distinguished

recipients **Mark Schnitzer**, also of **Reid & Hellyer**, and sole practitioner **Manfred Schroer**.

Our gratitude to these law firms for recognizing the importance of pro bono work and how it impacts the lives of individuals.

The benefits to law firms to taking on pro bono cases include giving their associates trial experience it may take years to get in the firm, improving their stature in the community, and the possibility of recovering attorney's fees. (Any attorney fees awarded on pro bono cases taken through Riverside Legal Aid may be retained by the attorney or firm.)

Unfortunately, despite the benefits to the attorneys, the firms, the clients and the community, the Inland Empire does not have a culture of pro bono work. We encourage you to send your attorneys to the pro se clinic for a couple of hours a month to advise pro se litigants and volunteer to take a pro bono case.



### Next Low Income Taxpayer Clinic to be Held in the Coachella Valley:

Riverside Legal Aid is partnering with the Legal Aid Society of Orange County (LASOC) to put on Low Income Taxpayer Clinics (LITC) in Riverside County. LASOC's successful LITC is funded by an IRS grant. Riverside County has been identified by the IRS as one of the five most underserved areas in the nation. The LITC provides *pro bono* legal assistance to low-income people with tax controversies, including representation at administrative hearings and trial, if needed. LASOC attorney **Renato Izquieta** and volunteer Riverside County tax attorney **Orlando Gotay** agreed to take on the pro bono representation of all who attended the first clinic, held in Riverside. The next clinic will be held at the Cathedral City Public Library on Monday, October 27, from 10:00 a.m. to 12:00 p.m., in conjunction with the Coachella Valley Pro Se Bankruptcy Clinic which is held on the fourth Monday of every month at the same location. If you are a tax attorney and interested in this project, please contact Riverside Legal Aid.

[Cont'd on page -5-]

# Alternative Dispute Resolution (ADR) Corner



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## Advanced Mediation and Settlement Skills

By: Gail Killefer, ADR Program Director

Righteous anger, empathy, humanizing, and implicit bias were all hot topics at a recent Advanced Mediation and Settlement Skills panel.

The Honorable Jeremy Fogel, Director of the Federal Judicial Center, with Claudia Bernard, Esq., the Chief Circuit Mediator for U.S. Court of Appeals for the Ninth Circuit, and Howard Herman, Esq., ADR Director of the Northern District of California, presented the ADR training on September 4, 2014, at the Roybal Courthouse in Los Angeles. Over 70 Central District Panel Mediators and judges attended.

Ms. Bernard and Mr. Herman led the first session, entitled *When Both Sides Are Righteously Indignant*. They used a combination of case studies and mini-lectures to talk about high-conflict cases and dealing with angry and self-righteous parties. Feelings of righteousness often arise from an outraged sense of justice, morality, or fair play; the strong emotions can then impede the party's strategic reasoning.

The speakers discussed tools and strategies that mediators may use to get beyond the emotional, reflexive responses of a party (or lawyer) to connect with an individual's conscious, rational thought.

For example, they recommended pre-mediation calls with counsel for the purpose of identifying self-righteous parties and learning more about the source of the emotion. The pre-mediation calls may cause the mediator to customize the mediation process – meeting separately with the lawyers, or separately with the parties and their lawyers.

In dealing with the righteous personalities at mediation, the speakers suggested empathetic practices, being positive, and humanizing or normalizing the situation. Did you know that a good

mood can have the contagious effect of influencing others to cooperate more and engage in conflict less?

These practices – empathy, staying positive, humanizing, and normalizing – can help the parties and lawyers make good decisions despite their deeply negative emotions toward the opposing side.

Panel Mediator Art Cunningham of Lewis Brisbois Bisgaard & Smith LLP of San Bernardino said the program was extremely valuable. He found that the presentation on working with parties where 'righteous indignation' was a roadblock to settlement was enlightening.

Judge Fogel led the second session, titled *Implicit Bias*, which addressed unconscious cultural bias and how it can affect both the mediation process and decision making. After a short lecture, Judge Fogel asked the audience to complete several short exercises, which demonstrated how real – and how unconscious – the influence of our life experiences and culture is on our decision-making.



[The Honorable Jeremy Fogel]

For example, Judge Fogel shared a scenario in which members of the audience had to decide whether to allow a debtor in Chapter 13 bankruptcy pay for private school for the debtor's child. As the facts – including the race, religion, sex, age, and employment of the family members – changed, the audience found their approach to the decision shifting too.

Panel Mediator Ken McVey of Best Best & Krieger in Riverside was impressed with Judge Fogel's insightful approach, broad perspective, and openness to new ideas. He found that the exercises compelled him – and other members of the training – to consider the uniqueness of another's perspective.

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## Chief Judge Alex Kozinski

[Pro Se Corner cont'd from page -3-]



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### *Honors the FBAIE with a Lecture on the State of the Circuit*

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*By: Kay Otani, Treasurer, FBAIE*

On July 29, 2014, out-going Chief Judge Alex Kozinski of the Ninth Circuit delivered a lecture on the state of the circuit for the Federal Bar Association of the Inland Empire. In a very interesting summary of the growth and change that has occurred from the time that he became Chief Judge of the Ninth Circuit, Judge Kozinski paid homage to the work of the Chief Judges who preceded him, and the work of his colleagues, in making the Ninth Circuit strong and ready for the future.

Most importantly the Circuit is stronger than it has been for years, with recent congressional appointments; Judge Kozinski will be leaving the Circuit at full strength. Judge Kozinski also discussed a wide variety of topics including the loss of senior colleagues, the introduction of new colleagues and their duties, the beauty of the San Francisco Court of the Ninth Circuit and the importance of allies to sustain support in Congress. The audience was enthusiastic and the lecture was very informative. Judge Kozinski graciously gave much of the credit for his successful tenure as Chief Judge to the hard work of others.

The event was well attended and the Music Room at the Mission Inn was filled with people who came to hear the out-going presentation of one of the most respected jurists on the Circuit.

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### Seeking Volunteers for the Coachella Valley Bankruptcy Pro Se Clinic:

The bankruptcy pro se clinic at the Cathedral City Library, held on the fourth Monday of the month, has taken off and is now assisting 12 to 15 individuals in every four-hour clinic. If you are a bankruptcy attorney in the Coachella Valley who can give a few hours once a month, please contact Riverside Legal Aid.



[www.riversidelegalaid.org](http://www.riversidelegalaid.org); [droth@riversidelegalaid.org](mailto:droth@riversidelegalaid.org) ❖

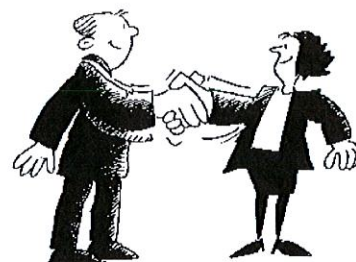
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[ADR Corner cont'd from previous page]

He said he was persuaded by Judge Fogel's presentation to look not just at the legal question, but to consider the human component of every dispute – including the unique background and perspective of each individual involved.

Mr. Cunningham said Judge Fogel's presentation was "a timely reminder that the persons interacting with the justice system come to the process with deep-seated views, of which they are not always even conscious, which color their views on the facts and their decision making."

With the insights from these two excellent presentations, the Central District's settlement officers are more aware of, and better equipped to deal with, the decision making process of everyone sitting at the table.



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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
OFFICE OF THE CLERK

**PUBLIC NOTICE**

**RE: CHANGES IN REQUIREMENTS FOR FILING A  
BANKRUPTCY CASE EFFECTIVE JULY 1,  
2014**

Effective July 1, 2014, the Bankruptcy Court for the Central District of California revised its forms requirements for filing a bankruptcy case in this district. The changes involve the replacement of two forms that are required if the debtor paid a non-attorney bankruptcy petition preparer to prepare the bankruptcy filing:

- 1) National form B 280 titled *Disclosure of Compensation of Bankruptcy Petition Preparer* replaces the Court's local form with the same title.
- 2) National form B 19 titled *Declaration and Signature of Non-Bankruptcy Petition Preparer* replaces the Court's local form titled *Statement of Assistance of Non-Attorney with Respect to the Filing of Bankruptcy Case*.

The Court's *Court Manual* and *Bankruptcy Petition Packages* were modified to reflect this and other changes.

The new forms, updated *Petition Packages* and *Court Manual* are available for free on the Court's website [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), or for a fee at the Intake windows at all of the Court's divisions.

**KATHLEEN J. CAMPBELL**  
CLERK OF COURT

14-008 (6/30/14)

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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
OFFICE OF THE CLERK

**PUBLIC NOTICE**

**RE: REQUEST FOR PUBLIC COMMENT ON  
PROPOSED NATIONAL RULES AND  
FORMS AMENDMENTS**

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil and Criminal Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The public comment period ends February 17, 2015.

To view the proposed revisions, reports explaining the proposed changes, as well as information about submitting written comments or testimony at public hearings, please visit the Rules & Policies webpage on the U.S. Courts website at <http://go.usa.gov/typeJ>.

**KATHLEEN J. CAMPBELL**  
CLERK OF COURT

14-012 (9/8/14)

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